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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,844	01/15/2004	Daniel L. Gasper	33751/US/RBC/VEJ	8758

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EXAMINER
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SKURDAL, COREY NELSON

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 09/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/759,844	<b>Applicant(s)</b> GASPER, DANIEL L.	
	<b>Examiner</b> Corey N. Skurdal	<b>Art Unit</b> 3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 1/15/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 1/15/2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>4/23/2004 &amp; 6/07/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: Paragraph [0038] includes the phrase "and is operably couples". The phrase should read "and operably couples."

Appropriate correction is required.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the securing rod with a threaded end coupled to a threaded pin of said securing lever of claim 12 and 23 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New

Art Unit: 3727

Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Objections***

3. Claims 2 and 14 are objected to because of the following informalities: the limitation "and/or" is used. Only one limitation should be used to either encompass one or all members of the listed group. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In particular, claims 1, 8, 11, 13, 19, and 22 recite the limitation "said closed position" in claim line 9, claim 8 line 4, claim 11 line 1, claim 13 line 13, claim 19 line 4, and claim 22 line 1. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States

Art Unit: 3727

only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claims 1-4, 7, and 13-16 are rejected under 35 U.S.C. 102(e) as being anticipated by Schultz (US 6,886,795).

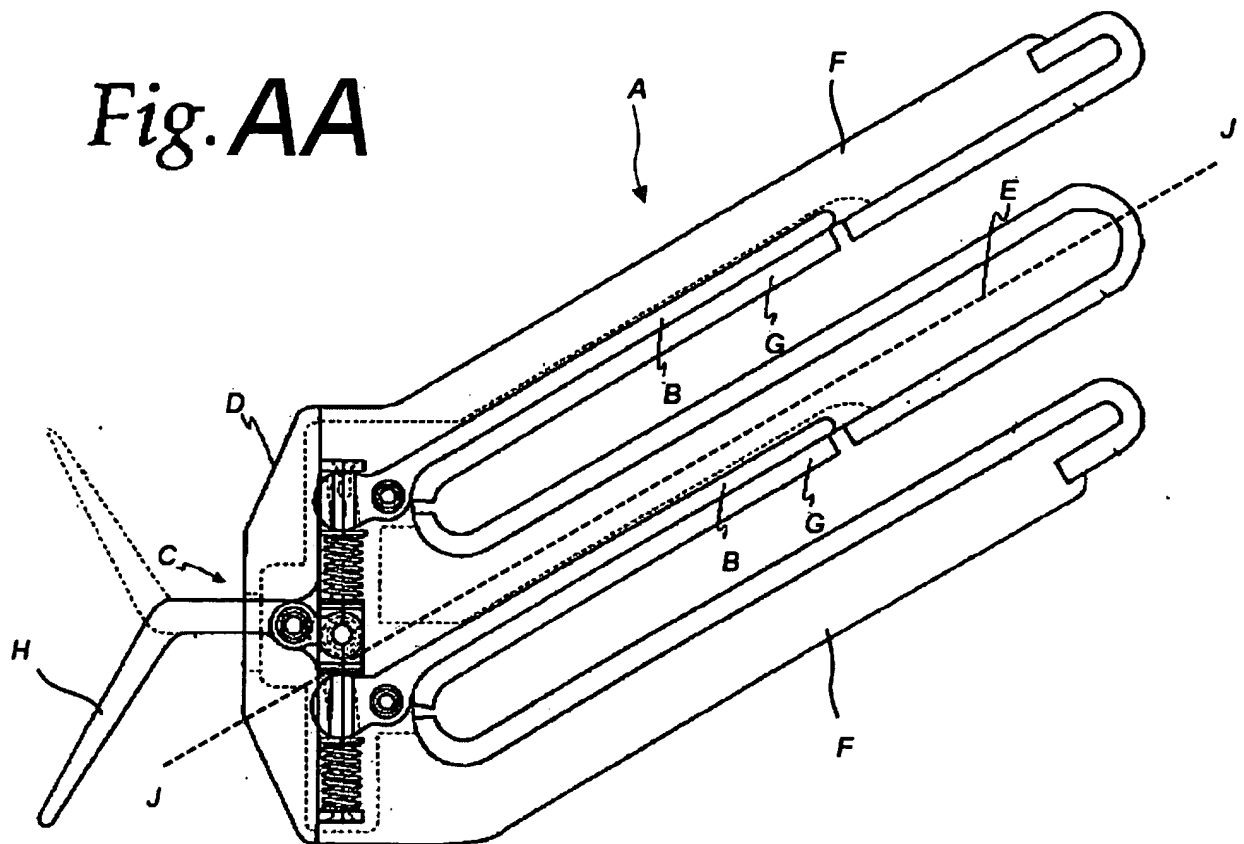
Regarding claims 1 and 3, Schultz (referring to Figure AA shown below) discloses a rack for sports equipment as claimed including a support member A, a clamp member B, and a securing device C. The support member includes a base D, a guide E extending from the base, and a pair of support prongs F extending from the base angularly disposed with respect to the guide. Referring to the limitation "angularly disposed," zero is an angle and as such Examiner is considering the support prong to meet the limitation being disposed at a zero degree angle with respect to the guide. The clamp member B is shown by Shultz in Figures 1 and 2 to be movable between open and closed positions, the clamp member having wedge surfaces G parallel to the support prongs. The securing device C moves the clamp member by handle H, between open and closed positions, the closed position configured to bias sports equipment against the support prongs.

Regarding claim 2 and 14, the Schultz device is configured to hold "generally planar items such as skis, surfboards, and wakeboards" (col.3, ln. 22-23), satisfying the claims.

Regarding claim 4, the support prongs and wedge surfaces are shown in Figure 1 to be substantially symmetrical about the guide member E.

Regarding claim 7, Schultz discloses surfaces of the support prongs and wedge surfaces that are covered with a layer of cushioning material (Figure 1, article 40) such

as rubber (col. 4 ln. 30-35) wherein the rubber is considered a resilient gripping member.



Regarding claim 13 and 15, Schultz discloses a rack for sports equipment as claimed including a support member A, a clamp member B, and a securing device C. The support member includes a longitudinal axis J, a base D, a guide E extending from the base and along the axis J, and a pair of support prongs F extending from the base at an angle with respect to the axis J. Referring to the limitation "at an angle," zero is an angle and as such Examiner is considering the support prong to meet the limitation being disposed at a zero degree angle with respect to the axis J. The clamp member B

is shown by Shultz in Figures 1 and 2 to be movable between open and closed positions, the clamp member having wedge surfaces G parallel to the support prongs. As the clamp member is moved between the closed and open position, the slot between the wedge surface and the support prong will have a variable width. The securing device C moves the clamp member by handle H, between open and closed positions, the closed position configured to bias sports equipment against the support prongs. Furthermore, along the support prongs and wedge surfaces, is resilient gripping member 40 (col. 4 ln. 30-35).

Regarding claim 16, the support prongs and wedge surfaces are shown in Figure AA to be substantially symmetrical about the longitudinal axis J guide.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 5-6, and 17-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schultz and in view of Meeks (US 5,752,638). Schultz discloses the device substantially as claimed and applied to claim 1 above, but does not disclose the rack having two support members attached to a cross brace at opposite ends, and the cross brace having a mounting member. However, Meeks teaches a rack for skis and wake boards with support members 24 attached to cross brace 14 at distal ends (Figure 2), and mount 16 for securing the rack to a boat. Therefore it would have been obvious

Art Unit: 3727

to one skilled in the art at the time of invention to provide Schultz with multiple support members attached to a cross brace, and a mount member in order to increase the stability of article being supported by the rack.

10. Claims 8-12, and 19-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schultz in view of Ng (US 5,316,192).

Regarding claim 8, 9, 19, and 20, Schultz discloses the invention substantially as claimed and as applied to claim 7 above, but does not have gripping members with lugs extending toward the wedge surface. However, Ng teaches the use of gripping members 8 for the purpose of tightly gripping elongate objects such as skis. Therefore it would have been obvious to one skilled in the art at the time of invention to provide Schultz lug gripping members in order to increase the holding force between the wedge member and the support prongs. Regarding the flexing of the lugs toward the base, the modified Schultz device would act in such a manner at the wedge surface would create a force angled down toward the base, effectively satisfying the claims.

Regarding claim 10 and 21, the modified device of Schultz discloses the claimed invention wherein the securing device (Figure 9) includes a securing lever 224 attached to a securing rod 232, the rod extending through the support member and coupled to the clamp member 250, effectively satisfying the claims.

Regarding claim 11 and 22, the secured position of the modified Schultz device can be clamped to varying widths by use of springs 244 and 236. As the tension in the spring can be increased or decreased by tightening nut 230, the secured/closed position is considered adjustable, effectively satisfying the claims.



Art Unit: 3727

Regarding claim 12 and 23, the modified Schultz device discloses the claimed invention, with securing rod 232 and lever 224 being coupled together by threaded ends of the rod and nuts 230 and 231.

***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dietlein (US 4,143,799) discloses a rack for skis with a clamping member. Hancock (US 5,915,572) discloses a rack with 'lug' gripping members. Evans (US 4,863,082) discloses a water ski rack.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Corey N. Skurdal whose telephone number is 571-272-9588. The examiner can normally be reached on M-Th 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

  
NATHAN J. NEWHOUSE  
SUPERVISORY PATENT EXAMINER

Art Unit: 3727

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CNS